

STATE OF MINNESOTA

IN SUPREME COURT

C4-85-697

In re Proposed Amendments to Canon 5  
of the Code of Judicial Conduct

On August 2, 2005, the United States Court of Appeals for the Eighth Circuit held that certain parts of Canon 5 of the Minnesota Code of Judicial Conduct are unconstitutional. *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005). On January 23, 2006, the United States Supreme Court denied certiorari in that case, and the Eighth Circuit decision is therefore now final. The attached amendments are proposed to conform Canon 5 to the holdings of the Eighth Circuit. We invite comment on these amendments, to be promulgated on an accelerated schedule. We recognize that additional amendments beyond those proposed with this order may be advisable, and are aware, for example, that the Minnesota State Bar Association is preparing a proposal for amendment of Canon 5. We therefore provide a more extended period for submission of comments and proposals on the need for and advisability of additional amendments.

IT IS HEREBY ORDERED that any individual wishing to provide a written statement in support of or opposition to the amendments proposed with this order shall submit fourteen copies of such statement addressed to Frederick Grittner, Clerk of the

Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, Minnesota 55155, on or before March 16, 2006.

IT IS FURTHER ORDERED that proposals for or comments concerning additional amendments that should be made based on the decisions in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), and *Republican Party of Minnesota v. White*, 416 F.3d 738 (8th Cir. 2005), *cert. denied sub nom. Dimick v. Republican Party of Minnesota*, \_\_\_ U.S. \_\_\_ (2006), and related legal developments may be submitted on or before April 28, 2006, in the same manner as described in the preceding paragraph.

Dated: February 14, 2006

BY THE COURT:

/s/

Russell A. Anderson  
Chief Justice

**PROPOSED AMENDMENTS TO CANON 5  
OF THE CODE OF JUDICIAL CONDUCT**

(deletions indicated by strikethrough; additions indicated by underline)

**CANON 5**

**A Judge or Judicial Candidate Shall Refrain From Political Activity Inappropriate to  
Judicial Office**

**A. In General.**

Each justice of the Supreme Court and each Court of Appeals and district court judge is deemed to hold a separate nonpartisan office, Minn. Stat. 204B.06 subd. 6.

(1) Except as authorized in Section 5B(1), a judge or a candidate for election to judicial office shall not:

- (a) act as a leader or hold any office in a political organization; ~~identify themselves as members of a political organization, except as necessary to vote in an election;~~
- (b) publicly endorse or, except for the judge or candidate's opponent, publicly oppose another candidate for public office;
- (c) make speeches on behalf of a political organization; or
- (d) ~~attend political gatherings; or seek, accept, or use endorsements from a political organization; or~~
- ~~(e)~~ solicit funds for or pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.

\* \* \* \*

**B. Judges and Candidates for Public Election.**

(1) A judge or a candidate for election to judicial office may, except as prohibited by law,

- (a) speak to gatherings, ~~other than political organization gatherings,~~ on his or her own behalf;
- (b) appear in newspaper, television and other media advertisements supporting his or her candidacy; and
- (c) distribute pamphlets and other promotional campaign literature supporting his or her candidacy.

(2) A candidate shall not personally solicit ~~or accept~~ campaign contributions ~~or solicit publicly stated support~~, except as expressly authorized herein, and shall not personally accept campaign contributions. A candidate may, however, establish committees to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting campaign contributions and public support from lawyers, ~~but shall not seek, accept or use political organization endorsements~~. Such committees shall not disclose to the candidate the identity of campaign contributors nor shall the committee disclose to the candidate the identity of those who were solicited for contribution or stated public support and refused such solicitation. A candidate may (a) orally solicit campaign contributions from an audience of 25 or more people, and (b) sign letters soliciting campaign contributions, if the letters direct contributions to be sent to the address of the candidate's campaign committee and not that of the candidate and if the candidate takes reasonable measures to ensure that the names and the responses, or lack thereof, of the recipients of the letters will not be disclosed to the candidate. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

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